

**Concurrent Receipt of Military Retired Pay
and Veterans Compensation:
Precedents in Federal Civil Service
and Other Programs**

**Testimony before the
Subcommittee on Personnel
Senate Committee on Armed Services
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Good afternoon Mr. Chairman and members of the Subcommittee. My name is Carolyn Merck, and I am pleased to have the opportunity to present my statement today. I recently retired from my position as a Specialist in Social Legislation with the Congressional Research Service (CRS), but today I am representing only myself.

Ten years ago, when concurrent receipt was an issue before the Congress, the Conference Report accompanying the Fiscal Year 1993 National Defense Authorization Act required CRS to prepare a report analyzing precedents for concurrent receipt of military retired pay and Veterans Compensation. I participated in preparing that report, and my statement today draws from it. Although the CRS analysis was done 10 years ago, program rules have not changed, and the study remains valid.¹

Under proposals to permit full concurrent receipt of military retired pay and veterans disability compensation, the two benefits would flow to an individual *based on the same period of employment, the same job, and the same employer*. This employment period is the key factor. It is instructive to ascertain if concurrent receipt is permitted for beneficiaries of other public programs, particularly whether disabled federal civilian employees may receive concurrently a civil service retirement benefit and a disability benefit *based on the same period of government service*.

CRS Study Findings

The CRS study identified 25 pairs of programs under which individuals might be eligible for benefits from both programs. Of these, 17 program pairs pay benefits *derived from the same period of employment*. In 13 of those 17 program pairs, Congress legislated offsets or limits on combined payments in order to avoid overly generous benefits or to prevent program abuse.²

¹ *Military Retirement and Veterans Compensation: Concurrent receipt Issues*, by Robert L. Goldich and Carolyn L. Merck, CRS Report 95-469F, April 7, 1995.

² The 13 program pairs under which benefits derive from the same employment and for which Congress legislated offsets, limits, or choice between benefits are: civil service retirement plus time-limited FECA scheduled awards; federal, state, and local disability plus Social Security Disability; FECA plus federal judicial survivors benefits;

Only four program pairs for which benefits flow from the same employment permit full concurrent receipt.³ In these cases, Congress expressly combined benefits under two programs in order to achieve what they judged to be income adequacy (e.g., VA/DIC plus Social Security survivor benefits for widow(er)s of deceased veterans), or gave little consideration to the effects of combined benefits (e.g., military retired pay plus Social Security retirement benefits).

In addition, the study notes that benefits from *nonmilitary* disability programs are virtually always limited in some way when a disabled person is also eligible for retirement benefits or has other income. (This is true for private disability benefits as well.) However, Congress has excluded VA compensation from limitations or income caps applicable to other disability beneficiaries.⁴ Unlike all other disability programs that are intended to compensate for lost earnings or earning capacity, VA compensation is not reduced if the recipient has earned income, a policy intended to preserve work incentives for disabled veterans.

Precedents in Federal Civil Service Disability Programs

Some advocating full concurrent receipt say that disabled federal civil service workers may receive concurrently both disability and retirement benefits. This is not accurate.

Federal Civil Service Disability Retirement. Federal workers who become disabled from *any cause* and who are determined by the Office of Personnel Management to be unable to perform their federal job may retire regardless of age and draw a fully taxable *retirement* annuity.

unemployment compensation plus social security; FERS disability retirement plus Social Security Disability; military SBP and Social Security Survivor benefits for spouses age 62+; federal CSRS plus Social Security based on military service for retirees age 62+; military retired pay plus Veterans Compensation; military SBP plus DIC; black lung benefits plus workers' compensation; unemployment compensation plus pension income; military nondisability retired pay and military disability retired pay; CSRS or FERS plus FECA non-schedule awards.

³ These four program pairs are: military retired pay plus Social Security; FERS retirement plus Social Security; DIC plus Social Security survivor benefits; Veterans Compensation plus unemployment compensation.

⁴ For example, the cap on Social Security disability benefits for persons with other public disability benefits does not take Veterans Compensation payments into account.

Retirement benefits based on disability are payable for the duration of the disability or for life, but end if the annuitant has earnings above a certain amount.

Federal Employees' Compensation Act. Benefits for disabled federal civilian workers whose disability is directly related to their federal job are payable under the Federal Employees' Compensation Act (FECA). FECA is the workers' compensation program for federal personnel and is administered by the U.S. Department of Labor. Benefits are tax-free.

There are two types of FECA benefits. Most FECA payments, known as "non-schedule awards," are earnings replacement benefits, paid monthly as a percentage of prior salary for the term of the disability or until death. Because payments are intended to replace lost earnings, they are reduced by the amount of any earned income. Recipients who also qualify for federal retirement, based either on disability or age, must choose to receive either the FECA non-schedule award or the retirement annuity, *but may not receive both*. It is strictly a one-or-the other choice.

So-called "schedule awards" under FECA are *indemnity* payments for permanent, specific physical losses generally resulting from injury (such as loss of an arm). Unlike non-schedule FECA benefits or VA compensation, FECA schedule awards are not compensation for lost earnings. Payments are limited to a certain number of weeks, and the amount is based on the extent of the physical loss and the employee's previous federal pay. They are paid regardless of whether the individual works and draws a salary, retires and draws a civil service annuity, or is also awarded *non-schedule* FECA benefits for lost earnings.

Waiver of Military Retired Pay by Federal Civil Service Retirees

A situation some say is a precedent for concurrent receipt applies to individuals who (a) retire from a military career and draw retired pay, *and* (b) are eligible for Veterans Compensation, *and* (c) become federal civil service employees and work until eligible for retirement. Such individuals may elect to combine their military service years with their

civilian service years by waiving their military retired pay and applying their combined years of service to the computation of their civil service annuity. Although they must make a cash deposit into the civilian retirement system, it may be financially advantageous to do so for those whose civilian service started *before 1984* and who are covered by the Civil Service Retirement System (CSRS). That is, their retirement income would be larger than their military retired pay and their CSRS, paid separately. Moreover, because such retirees do not receive benefits from the military retirement system, there is no offset if they also receive Veterans Compensation.

Some say it is inequitable to reduce military retired pay by the amount of VA compensation received by retirees who do not become federal civilian workers, or who *do not waive* their military retired pay, while no offset applies to those with second careers in the civil service and who *do waive* their retired pay. They would resolve that inequity by paying both benefits concurrently, in full.

Others disagree and suggest two reasons why this atypical situation is not a precedent on which changing the offset system should be based. First, the group to whom it applies is small and declining in size and should eventually disappear because it benefits only military retirees who started their civil service jobs before 1984 and are covered under the now closed CSRS. Those joining the civil service in 1984 and thereafter are covered by the newer Federal Employees Retirement System (FERS), under which the low benefit accrual rate makes combining service years disadvantageous. Second, they suggest that, as an alternative, any inequity should be resolved, at savings to the government, by applying the offset of VA compensation against the civil service annuities of those who benefit financially by combining their military and civil service years.

Thank you Mr. Chairman. This concludes my prepared statement. I will be glad to answer your questions.